

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**DAVID E. GRAHAM,** )  
                                )  
                                )  
**Petitioner,**             )  
                                )  
                                )  
**v.**                             )  
                                )  
                                )  
**UNITED STATES OF AMERICA,** )  
                                )  
                                )  
**Respondent.**             )

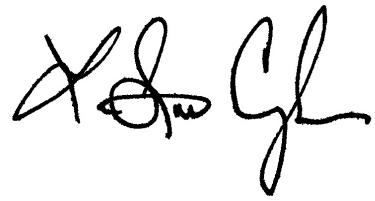
**CIVIL ACTION NO.  
1:13-cv-8031-LSC-JEO**

**MEMORANDUM OPINION**

This case is before the court on the Report and Recommendation of the magistrate judge that Petitioner's Motion Under 28 U.S.C. § 2244 for Order Authorizing District Court to Consider Permission to File Application for Relief Under U.S.C. § 2244 or 2255(f), (doc. 1), be construed as a motion pursuant to 28 U.S.C. § 2255 and that said motion be denied and that the instant case be dismissed with prejudice. (Doc. 5). Petitioner did not file any objections.

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby **ADOPTS** and **APPROVES** the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, Petitioner's motion, which is construed as one pursuant to 28 U.S.C. § 2255, is due to be denied and this petition for writ of habeas corpus is due to be dismissed with prejudice. An appropriate order will be entered.

It is so **ORDERED**, this 10th day of December, 2013.



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L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE  
174256